

Dr Dharmendra Kumar Vs. Health

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Court : Jharkhand

Decided On : Oct-09-2017

Appellant : Dr Dharmendra Kumar

Respondent : Health

Advocate for Pet/Ap. : Mr. Rajesh Lala

Judgement :

IN THE HIGH COURT OF JHARKHAND AT RANCHI W.P.(S). No. 1020 of 2017
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Dr. Dharmendra Kumar, son of Sri Laxmi Narayan, resident of C-45, Kusum Vihar, Koyla Nagar, P.O. BCCL Township, P.S. Saraidhela, District Dhanbad. Petitioner
VERSUS1 The State of Jharkhand through the Chief Secretary, Govt. of Jharkhand, Ranchi.

2. The Commission-cum-Secretary, Department of Health, Medical Education and Family Welfare, Govt. of Jharkhand, Ranchi.

3. Patliputra Medical College through its Principal, Saraidhela, P.O. BCCL Township, P.S. Saraidhela, District Dhanbad.

4. The Accountant General (Accounts & Establishment), Jharkhand, Ranchi. ...
Respondents.

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For Petitioner : Mr. Rajesh Lala, Advocate For Respondents : Mr. Subham Mishra,

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CORAM: HON'BLE MR. JUSTICE DR. S. N. PATHAK04 09.10.2017 Heard
learned counsel for the petitioner and learned counsel for the State.

2. The petitioner, who is a Senior Resident of PMCH under the control of the President, has approached this Court for regularization of his services under the following heads:- i) The period of Higher Study Leave from 24.10.1990 to 21.02.1991 availed by the petitioner for pursuing his House Job from Rajendra Medical College, Ranchi with due knowledge and permission of the Competent State Government Authority under Rule 204 of the Service Code. ii) The period waiting for posting since 15.06.1993 to 23.06.1993 in the Headquarter of Health Department, Bihar, Patna. iii) Period waiting for posting since 25.06.1996 to 22.12.1996 in 2 the Headquarter of Health Department, Bihar, Patna. iv) The period waiting for posting since 23.12.1996 to 03.03.1997 in the office of Civil Surgeon, Dhanbad for correction of his posting notification by the Headquarter Department, Bihar, Patna. Further prayer has been made for monitory benefits as well as consequential benefits.

3. The facts as derived from the writ petition are that the petitioner completed his five years MBBS Course from Rajendra Medical College & Hospital (RMCH), Ranchi in the year 1989 and after completion of his internship, he was registered as Doctor under State Medical Council of India. In the year 1990, the petitioner started his House Man-ship/ House Job at Rajendra Medical College & Hospital, Ranchi, which was then prior requirement for taking admission in PG Course. Thereafter, the petitioner appeared in the Medical Officer Recruitment Examination as conducted by BPSC and upon his selection, was issued appointment letter on 22.09.1990, while he was pursuing his House Job at RMCH, Ranchi. Upon his selection, the petitioner was posted as Leave Reserved Post under Civil Surgeon Office, Aurangabad, Bihar vide order as contained in memo dated 23.10.1990. It is further stated that a letter dated 22.10.1990 of the Superintendent, RMCH, Ranchi was received by the Civil Surgeon, Aurangabad, Bihar with a request to relieve the petitioner for his continuation and completion of his House Job at RMCH, Ranchi. It is further argued by the learned counsel that vide Govt. Letter dated 10.10.1990,

the Civil Surgeons were empowered to relieve new appointees for pursuing House Job from recognized Medical Colleges. A general order was also issued vide Govt. Memo No. 837(3)/ Health, Patna dated 13.09.1991, authorizing/ empowering all Civil Surgeons and other Officers within the State to relieve all new appointees who were doing PG Course (Higher Studies). Accordingly, the Civil Surgeon, Aurangabad vide order as contained in memo dated 23.10.1990, relieved the petitioner to join and complete his House Job from RMCH, Ranchi. Thereafter, the petitioner joined his House Job at Ranchi on 24.10.1990 and completed the same on 21.02.1991. After completion of the House Job, the Superintendent, RMCH, 3 Ranchi relieved the petitioner vide his letter dated 21.02.1991 to enable him to join his government job. In this regard, the Superintendent, RMCH, Ranchi has also issued a certificate No. 3018 dated 23.02.1991 in favour of the petitioner.

4. It is further stated that after remaining in study leave for pursuing House Job from 24.10.1990 to 21.02.1991, he joined his previous place of posting at Additional PHC, Devkund Goh, Aurangabad on the post of Medical Officer on 22.02.1991 and in this regard Director-in-Chief, Health Services was informed by the Chief Medical Officer, Aurangabad vide its letter as contained in memo No. 1110 dated 08.05.1991. Thereafter, the petitioner was issued 1st pay slip and accordingly, he was paid his salary for the relevant period. Subsequently, on qualifying a competitive examination for the course of Diploma in Tropical Medicine & Hygiene [DTM&H] at RMCH, Ranchi, the petitioner once again applied for Higher Study Leave before the Civil Surgeon, Aurangabad. Upon receipt of his representation, the Civil Surgeon vide his order dated 09.06.1992 directed to hand over the charge to Dr. Sri Krishna Sinha, and accordingly, the petitioner handed over the charge to him on 10.06.1992 and thereafter, vide order dated 11.06.1992, the petitioner was relieved for pursuing his Higher Study. The petitioner joined the DTM&H Course at RMCH, Ranchi on 15.06.1992 and completed the same on 14.06.1993. Upon completion of the said Course, the Principal, RMCH, Ranchi issued Relieving Order as contained in memo No. 1758 dated 14.06.1993.

5. It is the specific case of the petitioner that immediately thereafter, he joined the Health Department, Bihar Patna on 15.06.1993 and waited for his posting till 23.06.1993. The petitioner during the relevant period had also appeared in All

India PG Entrance Examination and was again got selected in MS [Eye] Course and was allotted Darbhanga Medical College, Bihar. Vide order dated 23.06.1993, the Deputy Director, Health Service, Bihar, Patna relieved the petitioner for his PG Course/ MS [Eye] Course from Darbhanga Medical College, Laharia Sarai, Darbhanga. Accordingly, the petitioner joined the said Course and completed the same on 24.06.1996, for which the Principal, Darbhanga Medical College had also issued Course relieving Certificate No. 3428 dated 24.06.1996 in favour of the petitioner. Thereafter, the petitioner joined the Health Department at Patna on 25.06.1996 and waited 4 for his posting till 22.12.1996. Thereafter, the petitioner was posted by Health Department, Bihar at Primary Health Centre, Sindri under the Civil Surgeon Office at Dhanbad. The petitioner joined the said Office on 23.12.1996. Since there is no Primary Health Centre at Sindri, the petitioner was allowed to join Additional Primary Health Centre/ State Dispensary at Sindri vide Charge Report dated 04.03.1997. The petitioner remained posted at State Dispensary, Sindri for the period between 04.03.1997 till 10.04.2006 and thereafter, was transferred to Senior Resident, Eye Department, PMCH, Dhanbad vide notification contained in Memo dated 08.04.2006. Accordingly, the petitioner joined the said post on 12.04.2006 and submitted his charge-report and since thereafter, the petitioner is working on the said post. It is the specific case of the petitioner that since the benefits of study leave for the said period and also period intervening the petitioner the waiting for postings were not paid to the petitioner, the petitioner filed several representations before the respondent- authorities annexing the order of this Court at Annexure-26 and also other documents, wherein it was stated that similarly situated persons were already given the benefits of the aforesaid study leave as well as for the period of waiting for posting but since no heed was paid to the representations of the petitioner, the petitioner has knocked the door of this Court for redressal of his grievances..

6. Mr. Rajesh Lala, learned counsel for the petitioner strenuously argues that the petitioner is entitled for regularization of the aforesaid period and also for monetary benefits of the period under the provisions of Service Code and also in view of the fact that similarly situated persons have already been extended the same benefits and as such, in view of Rules 204, 240 and 243 of Jharkhand Service Code, the petitioner is entitled for the said benefits and as such, a direction may be given to

the respondents to consider the case of the petitioner in accordance with the aforementioned Rules and pass an order regarding monitory benefits as well as all the consequential benefits by regularizing the aforesaid period of the study leave as well leave regarding waiting for posting.

7. Per contra no counter-affidavit has been filed by the respondents. Mr. Subhan Mishra, learned JC to GP-IV very fairly submits that if the 5 petitioner will file a fresh representation annexing Annexure-26 and also Annexure-27, in which already the cases of similarly situated Doctors have been considered, the respondent-authorities will consider the same and pass a reasoned order and if the petitioner is found entitled for the same benefits, the same will be extended to him also.

8. Be that as it may, having gone through the rival submissions of the parties, this Court is of the considered view that the case of the petitioner needs consideration. Since the subject matter of the case is no more res integra and in compliance of Courts order dated 30.08.2011 passed by Co-ordinate Bench of this Court in W.P.(S). No. 1541 of 2011 in the case of Dr. Dinesh Prasad Bhadani Vrs. State of Jharkhand & Ors., the case of similarly situated doctors have already been settled and monitory benefits as well as the other consequential benefits have been extended to them, the respondents are directed to consider the case of present writ petitioner in view of Rules 204, 240 and 243 of the Jharkhand Service Code and also in light of the aforementioned order of this Honble Court.

9. As a cumulative effect of the aforesaid rules, guidelines, observations and the judicial pronouncements, I hereby direct the respondent No. 2, the Secretary, Department of Health, Govt. of Jharkhand to consider the representation of the petitioner and pass a reasoned order in accordance with law. Needless to say that if the case of the petitioner is found similar to that of Dr. Dinesh Prasad Bhadani (supra), the same benefits may be extended to him within a period of six weeks from the date of receipt/ production of a copy of this order.

10. Resultantly, the writ petition stands disposed of. (Dr. S.N. Pathak, J.) kunal/-